

CHAPTER NO. 304

HOUSE BILL NO. 1328

By Representative Hargrove

Substituted for: Senate Bill No. 1539

By Senator Rochelle

AN ACT to clarify the use of electronic mail by governmental agencies and to amend Tennessee Code Annotated, Section 3-12-105 and Title 10, Chapter 7, Part 5.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The General Assembly hereby finds and declares that the use of electronic mail by agencies, officials, and employees of state government creates unique circumstances. Electronic mail shares some features with telephonic communication, which generally is not stored in any form and is generally regarded as private. However, electronic mail differs in that it creates an electronic record that may be used or retrieved in electronic or paper format. The use of electronic mail is becoming more common and more important in facilitating the ability of government officials to gather information and communicate with their staff, other officials and agencies, and the public. However, individual officials are not equipped to act as official custodians of such communications and to determine whether or not the communications might be public records. For these reasons, the General Assembly requests that a study of the use of electronic mail be conducted to balance the privacy interests and practical limitations of public officials and employees with the public policy interests in access to government information. Such study shall be conducted by the Computer Subcommittee of the Joint Management Committee of the Tennessee General Assembly.

SECTION 2.

(a) On or before July 1, 2000, the State or any agency, institution, or political subdivision thereof that operates or maintains an electronic mail communications system shall adopt a written policy on any monitoring of electronic mail communications and the circumstances under which it will be conducted.

(b) The policy shall include a statement that correspondence of the employee in the form of electronic mail may be a public record under the public records law and may be subject to public inspection under section 6 of this act.

SECTION 3. Tennessee Code Annotated, Section 3-12-105(a)(2), is amended by inserting the words and punctuation ", including correspondence by electronic mail," between the word "correspondence" and the word "with".

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 20, 1999



JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 27th day of May 1999



DON SINGQUIST, GOVERNOR